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Snepp Gets Early Directions To Appeals Court From Judge

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Less than half an hour into the trial of former CIA agent Frank W. Snepp III, a hostile U.S. District Judge Oren R. Lewis was telling Snepp's lawyers how to get to the appeals court in Richmond.

"I'm certain you're already en route to Richmond," the judge said. "You just take I-95 and go south."

Snepp, a former interrogator of war prisoners and defectors, had misgivings about the course of the proceedings under Lewis even before the trial began yesterday.

"I feel like a man who's present at his own execution," Snepp said before entering the courtroom.

Snepp is on trial for allowing his book, "Decent Interval," an account of the U.S. evacuation from Saigon, to be published without submitting it beforehand to the CIA for approval. All CIA employees, on joining the agency, sign an agreement not to disclose information without first obtaining agency permission.

THE JUDGE PLAYED an active part in the presentation of the case, constantly interrupting the attorneys to question and cross-examine the witnesses, and frequently thundering "objection sustained" to the defense's questions, even when the prosecution had raised no objection. Lewis also told Snepp's attorneys on several occasions that their evidence "would make no difference."

The case had attracted wide legal interest because of Snepp's claim of a 1st Amendment right not to be restrained from publishing his book. But Lewis quickly dismissed such arguments, declaring, "This is not a 1st Amendment case." He compared Snepp's act to stealing plans for a neutron bomb and then releasing those plans.

"Nobody has got a right to divulge classified information," the judge said as the trial began. Thomas Lynch, an American Civil Liberties Union lawyer representing Snepp, noted the government had not argued that classified information was contained in "Decent Interval," but Lewis replied, almost shouting, that Lynch was "dealing in semantics."

LEWIS DEFINED the issue as whether a CIA employee has the right, "under the basic law of fiduci-

ary loyalty to an employer, to get inside information . . . and then resign and divulge to the whole world everything that the CIA did."

Lewis' first ruling was to deny Snepp a jury trial, stating that there were no issues of fact that could be handed over to a jury. Lynch argued that there were at least four issues of fact.

By denying a jury trial, Lewis eliminated defense testimony on those four issues. Lynch wanted to present testimony that Snepp's secrecy agreement with the CIA had been "fraudulently induced" by agency officers; that there was no clear evidence that the CIA had actually suffered harm by publication of Snepp's book; that Snepp had been repeatedly denied a response to grievances made to CIA officers on the subject of the U.S. evacuation from Saigon; and that the government was discriminating against Snepp in prosecuting him and not others who had divulged similar information.

LEWIS DECLARED that he had determined that Snepp's agreement with the CIA was "a clear and unambiguous contract," and he said he would forbid any effort of the defense to give testimony that Snepp had been "misled" in signing it.

Snepp's brief claimed that the agreement had been "fraudulently induced" because officers presiding at the oath had told him that the agency did not engage in assassination, and that the agreement did not cover unclassified material.

Rejecting the request for a jury trial on the injury issue, Lewis said that "the injury was clear. The American people suffered a loss when someone was allowed to publish information detrimental to their best interests."

And Lewis said that no jury was necessary to probe the non-response of the CIA's grievance mechanism because he had determined that the grievance mechanism was intended only for CIA personnel and placement matters, and not for issues such as the U.S. evacuation from Vietnam.

SNEPP TESTIFIED that a CIA official had assured him before Snepp took the secrecy oath in 1968 that it would be left to each agent to distinguish between classified and

unclassified material, and that Snepp would be free to use his discretion to determine such matters.

The CIA official named by Snepp to have made this assurance, Robert Griffin, said he could not recall having spoken to Snepp at the time in question.

CIA Director Stansfield Turner also testified yesterday, stating that Snepp's book "flouted the basic system of control we have."

"Over the last six to nine months we have had a number of sources discontinue with us," Turner said. "We have had very strong complaints from foreign intelligence sources."

Turner added, "If Snepp is able to get away with this, it will appear to other people that we have no control."

Former CIA Director William Colby testified that, while the publication of specific material may not have injured the CIA, "the reputation of not being able to exert discipline over its members has hurt the agency."

Colby said that even the act of publishing non-classified material could hurt the agency's operations.

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